Remarks

Claims 1, 4-6, 14, 17-19, 32, 33, 35-37, 39-43, and 45 are pending in the present application. Claims 1, 14, 32, 33, 35-37, and 39 have been amended. Claims 34 and 44 have been previously withdrawn. Claims 2, 3, 7-13, 15, 16, 20-31, and 38 have been previously canceled. Reconsideration of the pending claims is respectfully requested in view of the amendments to the claims and the following remarks.

Unexamined Claims

Claims 4-6, 17-19, 33, 42, 43, and 45 are designated in the May 14, 2009 Office Action ("Office Action") as being "objected to." (See Office Action, p. 2.) However, the Office Action fails to substantively address any of Claims 4-6, 17-19, 33, 42, 43, and 45 in the Detailed Action section of the Office Action. As a result, Applicant requests the opportunity to fully respond to any subsequent examination of Claims 4-6, 17-19, 33, 42, 43, and 45.

Election/Restriction

In the Office Action, an election of species was requested. (See Office Action, p. 5.) In requesting election, the Office Action stated that two species exists. Species 1 was directed towards "general storing" (Claim 40) and Species II was directed towards "specific storing" (Claim 41). (See Office Action, p. 2.) In a June 4, 2009 telephone conversation between Applicant's representative, Randy L. Campbell, Jr. (Reg. No. 57,223), and Examiner Nguyen, the Examiner agreed to withdraw the election requirement. Applicant requests indication of withdrawal of the species election requirement in a subsequent Office Action.

Claim Objections

The Office Action objected to Claims 40-41 as including two different species. As described in the previous section, during the telephone conversation with the Examiner on June 4, 2009, the Examiner agreed to withdraw the election requirement. During the conversation, the Examiner also agreed to withdraw the objection of Claims 40 and 41.

Claims 35 and 36 were objected to as providing "no further limitation" to Claim 32. (See Office Action, p. 2.) Claims 35 and 36 have been amended to address the objection.

Claim Rejections under 35 U.S.C. §102(e)

In the Office Action, Claims 32, 37, and 39 were rejected under 35 USC 102(e) as being anticipated by Khavakh et al. (U.S. Pat. App. Pub. No. 2003/0028319).

Claim 32

Claim 32 has been amended to describe "a plurality of stored instructions executable by the processor to cause the processor to . . . receive a user modification of the first route where the user modification includes a user selection of at least one map element." The Office Action alleges that Khavakh teaches "a navigation server comprising a processor . . . to . . . receive a user modification (see Khavakh et al., FIG. 1, ref. 'USER INTERFACE 31'), of the first route where the user modification includes selection of at least one map element (i.e., selecting 'SHORTEST DISTANCE' OR 'SHORTEST TRAVEL TIME')". (Office Action, p. 3.) However, Khavakh fails to teach or suggest "a processor" caused to "receive a user modification of the first route where the user modification includes a user selection of at least one map element" as described in amended 32.

The Office Action relies upon selection of "shortest distance" or "shortest travel time" considerations for calculation of a route in Khavakh for support. (See Khavakh, para. [0045], [0092].) However, neither of these considerations are "user modifications" that include "a user selection of at least one map element." Calculating a route based on "shortest distance" or "shortest travel time" considerations in Khavakh is unrelated to selecting an element on a map. These considerations are only described in Khavakh as being used to initially establish a route, not for modification of the initial route. Neither of these considerations are taught or suggested as including a user selection of at least one map element. Furthermore, these considerations in Khavakh contain no teaching or suggestion of "where a user modification includes a user selection of at least one map element." In Khavakh, a user may select one of these considerations

and a route calculation tool program calculates a route between an origination point and a destination point based on these considerations without a user selection of any map elements. (See Khavakh, para. [0045].)

Moreover, Khavakh describes a rerouting function performed to recalculate a route based on a route deviation. (See Khavakh, para. [0187], [0188].) However, this rerouting is only described as being performed in Khavakh by a rerouting function in two distinct manners. Both manners include recognition that a user deviated from a route. (See Khavakh, para. [0188].) In the first manner of rerouting, upon recognition of route deviation, the rerouting function prompts a user to indicate whether the user wants a new route calculated. (See id.) In the second manner of rerouting, the rerouting function automatically recalculates the route without user input. (See id.) Neither of these manners of rerouting implements a user selection of at least one map element. Clearly, the only user-based selection in Khavakh is selecting whether or not a rerouting is to be performed. A user is given no opportunity in Khavakh to select map elements during the rerouting process.

Furthermore, the Office Action wholly disregards limitations of Claim 32. For example, the Office Action fails to show where Khavakh teaches or suggests a processor caused to "calculate a second route to the trip destination as a function of the user modification." The Office Action lists the limitation, but fails to show where such features are taught or suggested in Khavakh. Accordingly, it is respectfully requested that the rejection of Claim 32 be withdrawn as improper. (See MPEP 707 and 37 CFR §1.104(b) and 37 CFR §1.104(c).)

For at least these reasons, Applicant respectfully believes that Khavakh fails to anticipate Claim 32 and that the rejection of Claim 32 is improper. As a result, Applicant respectfully requests that the rejection of Claim 32 as applied to amended Claim 32 be withdrawn.

Claim 37

Claim 37 has been amended to describe "an adaptive route calculation module operable to receive a user modification of the first route from the input device, where the user modification includes a user selection of at least one map element in the road

network map." For at least the reasons discussed with regard to amended Claim 32, Khavakh fails to teach or suggest such features. Furthermore, Khavakh fails to teach or suggest "where the adaptive route calculation module is operable to determine differences between the first route and the second route, and where differences between the first route and the second route are transmitted to a vehicle navigation system." In rejecting Claim 37, the Office Action alleges that, because Khavakh describes "a displayed easy-to-recognize result from each selection," Khavakh suggests determining "differences between the first route and the second route." (Office Action, p. 4.) However, the Office Action fails to identify with any particularity how the "displayed easy-to-recognize result from each selection" results in determining the differences between a first route and second route. As discussed with regard to amended Claim 32, Khavakh describes automatically recognizing a route deviation and either calculating a new route or prompting a user to allow a reroute to occur. In either case, Khavakh fails to teach or suggest determining differences between the first route and the second route.

Furthermore, the Office Action wholly disregards limitations of amended Claim 37. For example, the Office Action fails to show where Khavakh teaches or suggests "where differences between the first route and the second route are transmitted to a vehicle navigation system." The Office Action lists the limitation, but fails to show where such features are taught or suggested in Khavakh. Accordingly, it is respectfully requested that the rejection of Claim 37 be withdrawn as improper. (See MPEP 707 and 37 CFR §1.104(b) and 37 CFR §1.104(c).)

For at least the reasons discussed, Khavakh fails to teach or suggest all of the limitations of amended Claim 37. As a result, Applicant respectfully requests that the rejection of Claim 37 as applied to amended Claim 37 be withdrawn.

Claim 39

Claim 39 has been amended to describe "an adaptive route calculation module executable by the navigation server to allow the user to enter a user modification of the first route with the input device, where the user modification includes a user selection of

at least one map element in the road network map." For at least the reasons discussed with regard to amended Claim 32, Khavakh fails to teach or suggest such features.

Furthermore, the Office Action wholly disregards limitations of amended Claim 39. For example, the Office Action fails to show where Khavakh teaches or suggests "where the second route is stored in the vehicle navigation system as a preferred route." The Office Action lists the limitation, but fails to show where such features are taught or suggested in Khavakh. Accordingly, it is respectfully requested that the rejection of Claim 39 be withdrawn as improper. (See MPEP 707 and 37 CFR §1.104(b) and 37 CFR §1.104(c).)

For at least these reasons, the Khavakh fails to teach or suggest all of the limitations of amended Claim 39. As a result, Applicant respectfully requests that the rejection of Claim 39 as applied to amended Claim 39 be withdrawn.

Claim Rejections Under 35 USC 103(a)

In the Office Action, Claims 1 and 14 stand rejected pursuant to 35 USC 103(a) as being unpatentable over Khavakh in view of Morita (US 6,119,095).

Claim 1

Amended Claim 1 describes "an adaptive route calculation module executable on the navigation server to receive a user modification of the first route from the input device, where the user modification includes a first user selection to open a first node or segment and a second user selection to close a second node or segment in the road network map, where a second route from a current location to the trip destination is calculated with the adaptive route calculation module as a function of the user modification to include the opened first node or segment in the second route and to exclude the closed second node or segment from the second route." The Office Action rejected Claim 1 alleging that "[a]ll the claims' physical components that making-up these claims' systems are already covered as above. Morita (see Figs. 1-3) further define structure 10 that covers claimed components with particular features." (Office Action, p. 4.)

For at least the reasons discussed with regard to amended Claim 32, Khavakh fails to teach or suggest "an adaptive route calculation module executable on the navigation server to receive a user modification of the first route from the input device, where the user modification includes a first user selection . . . and . . . a second user selection." Furthermore, neither Khavakh nor Morita teaches or suggests a "first user selection" to "open a first node or segment" and a "second user selection" to "close a second node or segment in the road network map." Khavakh describes a map database including "node data" and "segment data." However, Khavakh fails to teach or suggest any nodes or segments being included in a displayed "road network map" in which a user may select a node or segment for opening or closing. The node data and segment data in Khavakh are used by a "route calculation tool program" for calculation of a route, not user a selection for route modification purposes. (See Khavakh, para. [0035]-[0036].).

Moreover, the supporting reference Morita is generally directed to generating and modifying an itinerary. (See Morita, col. 2, ll. 22-37.) The Office Action only provides general direction towards Figures 1-3 of Morita in rejecting Claim 1 without any further explanation of how Morita applies to Claim 1. Morita at least fails to describe any features of amended Claim 1 failed to be taught or suggested by Khavakh as described above. Thus, the Office Action fails to establish a proper *prima facie* case of obviousness. As a result, Applicant respectfully requests that the rejection of Claim 1 as applied to amended Claim 1 be withdrawn.
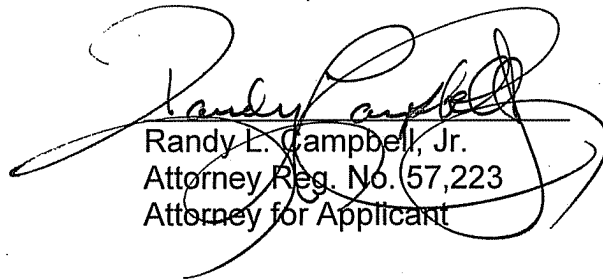
Claim 14

Claim 14 has been amended to describe "an adaptive route calculation module executable by the navigation server to allow the user to enter a user modification of the first route with the input device, where the user modification includes a user selection of at least one map element in the road network map." For at least the reasons discussed with regard to amended Claims 1 and 32, neither Khavakh nor Morita teach or suggest such features. As a result, the Office Action fails to establish a proper *prima facie* case of obviousness. As such, Applicant respectfully requests that the rejection of Claim 14 as applied to amended Claim 14 be withdrawn.

Conclusion

With this amendment and response, the present pending claims of this application are allowable, and Applicant respectfully requests the Examiner to issue a Notice of Allowance for this application. Should the Examiner deem a telephone conference to be beneficial in expediting allowance/examination of this application, the Examiner is invited to call the undersigned attorney at the telephone number listed below.

Respectfully submitted,

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